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MONTANA LEGISLATIVE HISTORY

Chapter 580 19 91

Bill H 942 S _____ Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 21	✓ C	Hearing Date(s)	Mar 27	✓ C
		C		Apr 01	✓ C
		C			C
		C		Apr 01	✓ C
Date Out	Feb 21	✓ C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/28	REFERRED TO EDUCATION & CULTURAL RESOURCES		
4/08	HEARING		
4/11	COMMITTEE REPORT—BILL CONCURRED		
4/13	2ND READING CONCURRED	30	15
4/15	3RD READING CONCURRED	35	13
	RETURNED TO HOUSE		
4/19	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/24	VETOED		

HB 941 INTRODUCED BY BENEDICT, ET AL.
ALLOW MEMBERS IN SHERIFFS' RETIREMENT TO PURCHASE ADDITIONAL SERVICE

2/19	INTRODUCED		
2/19	REFERRED TO STATE ADMINISTRATION		
2/19	FIRST READING		
2/19	FISCAL NOTE REQUESTED		
2/21	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED		
2/21	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	90	7
	TRANSMITTED TO SENATE		
2/23	FISCAL NOTE RECEIVED		
2/25	FISCAL NOTE PRINTED		
2/25	FIRST READING		
2/25	REFERRED TO STATE ADMINISTRATION		
3/11	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/11	PLACED ON CONSENT CALENDAR		
3/14	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/21	SIGNED BY PRESIDENT		
3/22	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 214	EFFECTIVE DATE: 7/01/91	

HB 942 INTRODUCED BY G. BECK, ET AL.
CREATE A STATUTORY SHORT FORM POWER OF ATTORNEY

2/19	INTRODUCED		
2/19	REFERRED TO JUDICIARY		
2/19	FIRST READING		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED		
2/25	2ND READING PASSED	95	4
2/26	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO JUDICIARY		
3/27	HEARING		
4/01	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED	49	0
4/05	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	97	1
4/11	3RD READING AMENDMENTS CONCURRED	97	1
4/19	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		

4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 580	EFFECTIVE DATE: 4/23/91	

HB 943 INTRODUCED BY DAVIS
GENERALLY REVISE THE LAWS RELATING TO LICENSING OF SANITARIANS
BY REQUEST OF BOARD OF SANITARIANS

2/19	INTRODUCED		
2/19	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/19	FIRST READING		
2/19	FISCAL NOTE REQUESTED		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	PLACED ON CONSENT CALENDAR		
2/23	FISCAL NOTE PRINTED		
2/23	FISCAL NOTE RECEIVED		
2/26	3RD READING PASSED	97	1
	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/15	HEARING		
3/15	TABLED IN COMMITTEE		
3/22	TAKEN FROM TABLE		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	48	1
3/28	3RD READING CONCURRED	46	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	96	0
4/11	3RD READING AMENDMENTS CONCURRED	98	0
4/17	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 545	EFFECTIVE DATE: 7/01/91	

HB 944 INTRODUCED BY BRADLEY, ET AL.
CREATE HIGHER EDUCATION CHALLENGE ENDOWMENT FUND

2/19	INTRODUCED		
2/19	REFERRED TO APPROPRIATIONS		
2/19	FIRST READING		
2/19	FISCAL NOTE REQUESTED		
2/23	FISCAL NOTE PRINTED		
2/23	FISCAL NOTE RECEIVED		
3/05	HEARING		
3/23	TABLED IN COMMITTEE		

HB 945 INTRODUCED BY BRADLEY, ET AL.
VACATION LEAVE POOL FOR ACTIVE DUTY EMPLOYEES
BY REQUEST OF HOUSE APPROPRIATIONS HUMAN SERVICES SUBCOMMITTEE

2/19	INTRODUCED		
2/19	REFERRED TO STATE ADMINISTRATION		
2/19	FIRST READING		
2/21	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED		
2/25	2ND READING PASSED	99	0
2/26	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO STATE ADMINISTRATION		

introduced in Utah. There has been an attempt for a state activity for individuals who do not have insurance available to them through their employment. Washington State does have such a program available and for individuals without insurance, they are enrolled in the state plan and the premiums are then deducted from income. They have found the ultimate goal of getting more children into private medical insurance rather than into public medicaid system.

Colette Baumgardner, Democratic Women's Caucus, supports the four Bills.

Opponent's Testimony: None

Questions from the Committee:

REP. TOOLE asked if these are major provisions of child care law. **Mr. McRae** said yes.

Closing by the Sponsor: **REP. DARKO** said there had been some trouble in drafting and that is why these Bills are all being heard the second to the last day of hearings. These are important in that they conform the statutes to federal regulations. There will be financial problems if our state does not conform.

HEARING ON HB 942

REP. GARY BECK, HD 48, DEER LODGE, said HB 942 is another Bill that affect military personnel upon activation and call-up. There have been some good bills that have passed through the House concerning benefits, pay and concerning leave. HB 942 would provide for Power of Attorney and provide an immediate and effective date. This law puts into effect a form that is copied from a Minnesota law that was taken from the Uniform Laws. This has been used successfully in Minnesota. **EXHIBITS 4,5**
He read from a letter from the Minnesota National Guard from a Judge Advocate Officer there. With Desert Shield there was a need to use the statutory short form Power of Attorney has simplified and sped-up the legal portion of this process. **EXHIBIT 6** This Bill would not cost the state. In Minnesota private companies printed the forms. A copy of the form could come from the statutes. This form is a good form for low income people because it gives them speedy access to the law.

Proponents' Testimony:

C. J. Lassila, Montana Army National Guard, Headquarters Company, 163 Armed Brigade, said as an attorney with the state, she frankly says this form would serve a benefit to the soldiers as well as to the members of the reserve within the state who are potential candidates for a trip to Saudi Arabia.

This Bill, if it goes into law, would allow this Power of Attorney to be around after that conflict. It can provide an on-going service through their office to the soldiers.

Captain Tom Muri, Staff Judge Advocate General, Montana National Guard, said there were deployed people who did not have an opportunity to take care of their legal affairs before they left. There are significant problems because of this. This short Power of Attorney would have greatly alleviated that problem. This Bill will assist up-coming additional people who will be mobilized.

Major Heffelfinger said in the twenty years he has been involved in the service, each of the three times he was involved in a war, it required more work to get the Power of Attorney. It is difficult to find an attorney to do it on short notice and then the document was lengthy. The focus will not be just for the military, it will be for people who are less advantaged.

General Ron Adams, 163 Brigade, said he commands approximately 3,400 personnel. The members of the reserve component are subject to active duty as had been exhibited over the past six months for Desert Shield and then Desert Storm. He is responsible to see that all members of his command are taken care of in all facets of their membership in the military. One thing that does bother them is to be sure their personal affairs are in order before they begin training. The training, the qualifications and the personal affairs and time are valuable when they are preparing for mobilization. Anything that can speed up taking care of other things so he can prepare his people is a plus.

Major General Greg Blair, Adjutant General, State of Montana, said Desert Shield and Desert Storm required the activation of significant numbers of Army Reserve and National Guard soldiers in Montana. He reviewed the legal assistance provided. The proposed legislation would assist them in assuring that they are always ready to meet the mission. Desert Storm was the largest deployment of soldiers since World War II. This proposed legislation would assist them to maintain their high state of readiness. More importantly, it would help the individuals in the service and to their families.

Opponent's Testimony: None

Questions from the Committee:

REP. R. JOHNSON said he is in favor of the Bill. He asked what is the difference between a General Power of Attorney and a Durable Power of Attorney. Does this type of document create a durable Power of Attorney. **Mr. Muri** said the bottom of the document would indicate that it would cover a durable Power of Attorney.

REP. R. JOHNSON referred to page 50, line 1. It says it creates a non-durable Power of Attorney. **Mr. Muri** said he would like time to review it.

REP. WYATT asked in terms of intent would there be individual counseling. **Captain Muri** said it would be a mass hand-out. It requires a notarization. From army regulations their officers have to be legal assistants and have to counsel them on this particular document. In a mobilization environment there are various documents, but the ones they are most concerned about are wills and a living will. They also do Power of Attorneys. He passed around the sample that he had done. The Institutions are not happy with those Power of Attorneys. Power of Attorneys do not have to be accepted by the banks or organizations. They do not like to give out general Power of Attorneys if a Special Power of Attorney will suffice. They always receive strict counseling about the difference between General and Specific and they avoid preparing these Power of Attorneys on a daily operation of business.

REP. MEASURE asked how many attorneys and how many personnel they have. **Captain Muri** said the Montana National Guard has two staff judge advocates assigned to headquarters. There are 4,000 thousand Army National Guard and 1,110 Air National Guard. In addition, upon mobilization they acquire 450 Army Reservists. There are approximately 1,500 - 2,000 Army Reservists. In addition, there are two units of Navy Reservists. Each of them have 200-250. There are also individuals in Ready Reserve. There could be 5,000-7,000 in a long drawn-out war being mobilized in a very short period of time. The Montana Bar Association has a pro-bono situation to assist them. In the military there are household goods, medical conditions and divorced status to be considered.

REP. KELLER asked how many military are involved. **General Blair** said there are 5,000 members. In the total reserve there are 3,000. They have in active duty in all of the armed forces in excess of 10,000 people. They could be required or asked to assist especially active members.

REP. MEASURE asked if he was from Malmstrom. **General Blair** said he was the head of the Department of Military Affairs, State of Montana. He was in charge of Air and Army National Guard plus Veteran's Affairs and Disaster and Emergency Services. **REP. MEASURE** asked how many staff and attorneys there are throughout the state. **General Blair** said there are probably twenty to twenty five. It is set up to allow for assistance if needed.

<u>Closing by the Sponsor</u>: **REP. BECK** said he thinks this is an important Bill for the military.

EXECUTIVE ACTION ON HB 942

MOTION/VOTE: **REP. MEASURE** moved to table HB 942. He said he was concerned about the size of the new sections. He said the document is fifty pages. He said he doesn't understand it. Motion failed 5-15. **EXHIBIT 21** **REP. MEASURE** moved to amend it to eliminate everything other than acknowledging the fact that a short Power of Attorney be established. He didn't think it was necessary to amend other areas of the law. He asked if that would be a problem. **REP. TOOLE** said he understood this was an effort to set out a comprehensive list of the types of powers usually in the document itself. This sets the powers by law and then allows cross reference with a one page document. It is a uniform law. **REP. TOOLE** said he did not have a problem with the Bill.

REP. BOHARSKI thought they should reference that there is a statutory explanation. **CHAIRMAN STRIZICH** said there should be something a lay person can read.

REP. WHALEN said on the back of the form there could be an explanation giving the statute for each of the items on the front. **REP. WYATT** said she has been a military wife for ten years. The military will hardly let the active men give a Power of Attorney away. She would think there should be plenty of protection for them.

REP. MEASURE said the Power of Attorney is important. It is normally specific. He had been in the military and recalled receiving many forms. He thinks they are underwriting a document. He thinks people outside of the military will abuse the Power of Attorney form.

REP. DARKO said she thought most of the testimony was from the military and it detailed the problems they encountered getting the military ready for Desert Storm. This Legislation will affect for all time and for the general population. She thought the military discovered this need. If it is such a good thing, why wasn't it enacted sooner. She would prefer to limit it for purposes of the military. **REP. LEE** said the problem with the ordinary durable Power of Attorney is that once it is signed, the person they have designated can do anything. They have access to every legal decision. He thinks the Bill is fine as it is.

REP. WHALEN asked for clarification if they are limiting it to the military or are they adopting it for everyone. **CHAIRMAN STRIZICH** said he only has a DO PASS on the Bill. **REP. MEASURE** said he moved to amend it to include it as an accepted Power of Attorney, Section 1. **REP. TOOLE** said they have a Substitute Motion. **REP. WHALEN** said that doesn't address the problem with people making up will kits and copying the form. He thought it should be limited to the military. **REP. MEASURE** replied he doesn't know if anyone has done enough research to know if it can be limited to the military.

He thinks everybody is covered by it. **REP. WYATT** said if something is illegal, it shouldn't be considered legal for military people.

CHAIRMAN STRIZICH said he wanted to know if Section 17 in with the immediate effective date. **REP. MEASURE** said absolutely. He replied to Rep. Wyatt. He said he doesn't understand if the current Power of Attorney works for the military why they have to change all Montana laws and interpret each Section. He doesn't think that everyone in Montana should be affected for 5,000 people.

REP. BOHARSKI said Rep. Darko brought up good concern that this Bill is not just for the military. He recalled being in the State of Colorado for several months and unconscious. He had to go through many attorneys. He thinks the Bill as it is works.

REP. TOOLE asked what the Motion was. **CHAIRMAN STRIZICH** said the Motion was to exclude everything from the Bill except Section 1 and Section 17. They would have to do a technical amendment up near the top of the Bill. **REP. TOOLE** said the document specifically said at the top that the matters are defined and specifically enumerated in Section or Code. The amendment wouldn't work.

VOTE: Motion failed unanimously.

CHAIRMAN STRIZICH said it is a challenge for someone to bring a 50 page, 17 Section piece of law to them at this time in the session and expect an intelligent reaction and he is upset about that. He will vote against it.

VOTE: Motion DO PASS with **REPS. MEASURE, BROOKE** and **STRIZICH** voting no.

EXECUTIVE ACTION ON HB 912

REP. TOOLE moved DO PASS on HB 912.

Discussion:

REP. BOHARSKI said he had talked to Rep. Toole about one month before the Bill was introduced. During the last session he carried a bill that was similar. He thinks another concern is that people don't understand the no-fault insurance. Last session all the lawyers and insurance agents testified in favor of it. He spoke with the insurance companies and they don't have any difficulty with adding that. He would add to the Bill a requirement that insurance companies offer or make a person write out the option of having underinsured insurance. He thinks it is a great protection for consumers.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL EXEC ACTION/HEARINGS DATE 2-21-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR			
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. DAVE BROWN			✓
REP. ROBERT CLARK	✓		
REP. PAULA DARKO	✓		
REP. BUDD GOULD	✓		
REP. ROYAL JOHNSON	✓		
REP. VERNON KELLER	✓		
REP. THOMAS LEE	✓		
REP. BRUCE MEASURE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. LINDA NELSON	✓		
REP. JIM RICE	✓		
REP. ANGELA RUSSELL	✓		
REP. JESSICA STICKNEY	✓		
REP. HOWARD TOOLE	✓		
REP. TIM WHALEN	✓		
REP. DIANA WYATT	✓		
REP. BILL STRIZICH, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

February 21, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 942 (first reading copy -- white) do pass .

Signed: _____
Bill Strizich, Chairman

401536SC.HSF

EXHIBIT 4
DATE 2-21-91
HB 942

MAR 6 1990
OF MONTANA

UNIFORM LAWS ANNOTATED

Volume 8A

Estate, Probate and Related Laws

1990
Cumulative Annual Pocket Part

Replacing 1989 pocket part in back of volume

DIRECTORY OF UNIFORM ACTS AND CODES
with
TABLES AND INDEX

See special pamphlet
which accompanies these Pocket Parts

ST. PAUL, MINN.
WEST PUBLISHING CO.

UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT

Historical Note

The Uniform Statutory Form Power of Attorney Act was approved by the National Conference of Commissioners on Uniform State Laws in 1988. The complete text of the act, the prefatory note and comments are set forth in this supplement.

PREFATORY NOTE

The Uniform Statutory Power of Attorney Act, when adopted by a state, will give legislative sanction to a statutory form that can be used in whole or part instead of individually drafted forms or forms adapted from a form book. Use of the statutory form will be supported by the expressed authority of the state and have the statutory construction provided by Sections 3 through 17. It is hoped that the form will become familiar and be readily accepted by persons who see it. Acts of this kind have been adopted by several states, including California, Illinois, Minnesota, and New York. This proposed Act is based in part on those examples.

Section 1 is the form itself. It is a list of powers. The items relate to various separate classes of activities, except the last, which is inclusive. Health care matters are not included. Since they involve intensely controversial personal as well as economic considerations, they are left to other legislation. Space is provided for special provisions. After the introductory phrase, the term "agent" is used throughout the act in place of the longer and less familiar, "attorney-in-fact." Special effort is made throughout the Act to make the language as informal as possible without impairing its effectiveness.

Section 2 and the form itself permit the power of attorney to remain in effect after the disability of the principal if that is permitted by other law of the state. It does not by itself authorize the creation of a durable power. It is included because of the growing interest in durable powers and the fact that they are recommended by other acts proposed by the National Conference of Commissioners on Uniform State Laws.

Section 3 is the legislative construction of the authority that may be incidentally necessary for the exercise of a power vested in the form.

Sections 4 through 16 are the legislative construction of the list of brief topics in the form. Each section identifies actions that are permitted as appropriate to the particular grant of power. The statements, without being exhaustive, attempt to be amply illustrative.

The Act as a whole provides a practical method of granting powers of whatever scope may be appropriate for people in a wide variety of circumstances.

UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT

Section

1. Statutory Form of Power of Attorney.
2. Durable Power of Attorney.
3. Construction of Powers Generally.
4. Construction of Power Relating to Real Property Transactions.
5. Construction of Power Relating to Tangible Personal Property Transactions.
6. Construction of Power Relating to Stock and Bond Transactions.
7. Construction of Power Relating to Commodity and Option Transactions.
8. Construction of Power Relating to Banking and Other Financial Institution Transactions.
9. Construction of Power Relating to Business Operating Transactions.
10. Construction of Power Relating to Insurance Transactions.
11. Construction of Power Relating to Estate, Trust, and other Beneficiary Transactions.
12. Construction of Power Relating to Claims and Litigation.
13. Construction of Power Relating to Personal and Family Maintenance.
14. Construction of Power Relating to Benefits from Social Security, Medicare, Medicaid, or Other Governmental Programs, or Military Service.
15. Construction of Power Relating to Retirement Plan Transactions.
16. Construction of Power Relating to Tax Matters.
17. Existing Interests; Foreign Interests.
18. Uniformity of Application and Construction.
19. Short Title.
20. Severability Clause.
[21. Effective Date.]
[22. Repeals.]

§ 1. Statutory Form of Power of Attorney.

(a) Form. The following statutory form of power of attorney is legally sufficient:

STATUTORY POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I _____ (insert your name and address) appoint _____ (insert the name and address of the person appointed) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

_____ (A) Real property transactions.
_____ (B) Tangible personal property transactions.
_____ (C) Stock and bond transactions.
_____ (D) Commodity and option transactions.
_____ (E) Banking and other financial institution transactions.
_____ (F) Business operating transactions.
_____ (G) Insurance and annuity transactions.
_____ (H) Estate, trust, and other beneficiary transactions.
_____ (I) Claims and litigation.
_____ (J) Personal and family maintenance.
_____ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or military service.
_____ (L) Retirement plan transactions.
_____ (M) Tax matters.
_____ (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become disabled, incapacitated, or incompetent.

Library References

American Digest System

Appointment of agent by power of attorney, see Principal and Agent ⇐10(1, 2).
Authority of agent under power of attorney, see Principal and Agent ⇐97.

Encyclopedias

Appointment of agent by power of attorney, see C.J.S. Agency §§ 44 to 47.
Authority of agent under power of attorney, see C.J.S. Agency § 150.

§ 2. Durable Power of Attorney.

A power of attorney legally sufficient under this [Act] is durable to the extent that durable powers are permitted by other law of this State and the power of attorney contains language, such as "This power of attorney will continue to be effective if I become disabled, incapacitated, or incompetent," showing the intent of the principal that the power granted may be exercised notwithstanding later disability, incapacity, or incompetency.

COMMENT

Section 2 makes it explicit that, subject to the law of the enacting state, a power of attorney may continue when the principal is disabled, incapacitated, or becomes incompetent. The form in Section 1 includes a provision for continuance under those circumstances. That provision may be used or stricken at the discretion of the principal.

Library References

American Digest System

Termination of relation of principal and agent, see Principal and Agent ⇐29½ to 46.

Encyclopedias

Termination of relation of principal and agent, see C.J.S. Agency §§ 105 to 142.

§ 3. Construction of Powers Generally.

By executing a statutory power of attorney with respect to a subject listed in Section 1(a), the principal, except as limited or extended by the principal in the power of attorney, empowers the agent, for that subject to:

(1) demand, receive, and obtain by litigation or otherwise, money or other thing of value to which the principal is, may become, or claims to be entitled; and conserve, invest, disburse, or use anything so received for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction, and perform, rescind, reform, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, and deliver a deed, revocation, mortgage, lease, notice, check, release, or other instrument the agent considers desirable to accomplish a purpose of a transaction;

(4) prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court to carry out an act authorized by the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, expert witness, or other assistant;

(7) keep appropriate records of each transaction, including an accounting of receipts and disbursements;

(8) prepare, execute, and file a record, report, or other document the agent considers desirable to safeguard or promote the principal's interest under a statute or governmental regulation;

EXHIBIT 2
DATE 2-21-91
HB 942

GENERAL POWER OF ATTORNEY

I, Gary L. Beck, of Deer Lodge, Montana, do hereby constitute and appoint Beverly Beck, to be my true and lawful attorney, to do for me in my stead and on my behalf any and all things as may be done with my properties, real and personal, as I might myself do, and to pay any expenses or debts of mine out of any accounts I may have in either savings or checking accounts wheresoever situated, and to execute for me and on my behalf any and all instruments of title conveyance or security devices and to execute for me any and all tax returns, and to collect for me any and all income tax due me and to deposit the same in my bank accounts on his (her) signature.

This General Power of Attorney shall continue until revoked by me in writing. This Power of Attorney shall not be affected by the disability of the principal.

This General Power of Attorney shall become valid and effective only at and from the date that a commissioned officer in the United States Armed Forces certifies, that I have deployed, as a member of the Montana National Guard, in the Armed Service of the United States. I hereby request and authorize that as soon as possible after my deployment the said deployment clause be completed and signed by a commissioned officer.

Gary L. Beck
Principal

STATE OF MONTANA)
:SS.
County of DEER LODGE)

On this 13th day of January, 1991, before me, the undersigned, a Notary Public for the State of Montana, personally appeared GARY L. BECK, known to me to be the person whose name is subscribed to the within Power of Attorney, and acknowledged to me that he (she) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

DAVID S. NISS
NOTARIAL SEAL
(NOTARIAL SEAL)
STATE OF MONTANA

Notary Public for the State of Montana
Residing at _____, Montana
My commission expires

NOTARY PUBLIC for the State of Montana
Residing at Helena, Montana
My Commission Expires August 15, 1993

DEPLOYMENT CERTIFICATION CLAUSE

I, _____, do hereby certify that I am a commissioned officer in the Armed Forces of the United States. I certify that the above named, _____, is a member of the United States Armed Forces and has deployed in the Armed Forces of the United States as a member of the Montana National Guard.

Signature of Officer:_____Rank:_____ Date:_____

MA-OTAG-MT FORM 192
9 Jun 90

Form No. 2063-83M – GENERAL POWER OF ATTORNEY
Statutory Short Form 1988

EXHIBIT 6
DATE 2-21-91
HB 942

Walter S. Boom Co.

POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING, THEY ARE DEFINED IN (M.S. 523-24). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT ADVICE. THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES IS ALSO PERMITTED. THIS POWER OF ATTORNEY MAY BE REVOKED BY YOU IF YOU LATER WISH TO DO SO. THIS POWER OF ATTORNEY AUTHORIZES THE ATTORNEY-IN-FACT TO ACT FOR YOU BUT DOES NOT REQUIRE THE ATTORNEY IN-FACT TO ACT FOR YOU.

KNOW ALL BY THESE PRESENTS, which are intended to constitute a STATUTORY SHORT FORM POWER OF ATTORNEY pursuant to chapter **603**, section **25**, of Minnesota Law: M.S., Section 523.23.

That I _____
Name Address City

Do hereby appoint _____
Name Address City State Zip

my attorney(s)-in-fact appoint to act (jointly);

NOTE: If more than one attorney-in-fact is designated and the principal wishes each attorney-in-fact alone to be able to exercise the power conferred, delete the word "Jointly". Failure to delete the word "Jointly" will require the attorneys-in-fact to act unanimously.

First: [In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in M.S., section 523.24]

TO GRANT THE ATTORNEY-IN-FACT ANY OF THE FOLLOWING POWERS, MAKE A CHECK OR (X) IN THE LINE IN FRONT OF EACH POWER BEING GRANTED. TO DELETE ANY OF THE FOLLOWING POWERS, DO NOT MAKE A CHECK OR (X) IN THE LINE IN FRONT OF THE POWER. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER BEING DELETED WITH A LINE DRAWN THROUGH IT (OR IN SIMILAR FASHION). FAILURE TO MAKE A CHECK OR (X) IN THE LINE IN FRONT OF THE POWER WILL HAVE THE EFFECT OF DELETING THE POWER UNLESS THE LINE IN FRONT OF THE POWER OF (0) IS CHECKED OR X-ED.

CHECK OR (X)

_____ (A) real property transactions;

_____ (B) tangible personal property transactions;

_____ (C) bond, share, and commodity transactions;

_____ (D) banking transactions;

_____ (E) business operating transactions;

_____ (F) insurance transactions;

_____ (G) beneficiary transactions;

_____ (H) gift transactions;

_____ (I) fiduciary transactions;

_____ (J) claims and litigation;

_____ (K) family maintenance;

_____ (L) benefits from military service;

_____ (M) records, reports, statements;

_____ (N) all other matters;

_____ (O) all of the powers listed in (A) through (N) above.

SECOND: (YOU MUST INDICATE BELOW WHETHER OR NOT THIS POWER OF ATTORNEY WILL BE EFFECTIVE IF YOU BECOME INCOMPETENT. MAKE A CHECK OR (X) IN THE LINE IN FRONT OF THE STATEMENT THAT EXPRESSES YOUR INTENT.

_____ This power of attorney shall continue to be effective if I become incompetent. It shall not be affected by my later disability or incompetency.

_____ This power of attorney shall not be effective if I become incompetent.

THIRD: (YOU MUST INDICATE BELOW WHETHER OR ... THIS POWER OF ATTORNEY AUTHORIZES THE ATTORNEY-IN-FACT TO TRANSFER ...OUR PROPERTY DIRECTLY TO ATTORNEY-IN-FACT. MAKE A CHECK OR (X) IN FRONT OF THE STATEMENT THAT EXPRESSES YOUR INTENT.)

_____This power of attorney authorizes the attorney-in-fact to receive the transfer directly.

_____This power of attorney does not authorize the attorney-in-fact to receive the transfer directly.

In witness whereof I have hereunto signed my name this_____

day of_____, 19____.

_____
Signature of Principal

_____

_____
Signature of Attorney(s)-In-Fact

The foregoing instrument was acknowledged before me this_____day of_____, 19_____, by_____

_____.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

State of Minnesota

County of_____ } ss.

THIS INSTRUMENT WAS DRAFTED BY:

_____
(Name)

_____
(Address)

_____

EXHIBIT 21
DATE 2.21.91
HB 942

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 **BILL NO.** HB # 942 **NUMBER** _____

MOTION: Measure - Table motion

NAME	AYE	NO
REP. VIVIAN BROOKE, VICE-CHAIR	/	
REP. ARLENE BECKER		/
REP. WILLIAM BOHARSKI		/
REP. DAVE BROWN	/	/
REP. ROBERT CLARK		/
REP. PAULA DARKO	/	
REP. BUDD GOULD		/
REP. ROYAL JOHNSON		/
REP. VERNON KELLER		/
REP. THOMAS LEE		/
REP. BRUCE MEASURE	/	
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON	/	
REP. JIM RICE		/
REP. ANGELA RUSSELL		/
REP. JESSICA STICKNEY	/	
REP. HOWARD TOOLE		/
REP. TIM WHALEN		/
REP. DIANA WYATT		/
REP. BILL STRIZICH, CHAIRMAN		/
TOTAL	5	13

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB# 942

DATE 2-27-91 SPONSOR(S) Rep. Beck

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
ART Hoffelfinger 2536 Heritage, Helena	Self			X
C. J. Lassila 2500 Villard Ave. Helena	self + Montana Army National Guard 163rd Brigade			X
Capt Thomas S. Muri 320 Holter Ave	The men and women of Montana National Guard Reserve			X
BG C.R. (Ron) Adams 2575 Stuart Helena, MT	163d Ar Bde MTARNG Bozeman, MT			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on March 27, 1991, at 10:05 a.m.

ROLL CALL

Members Present:
Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Chairman Pinsoneault asked Committee members to get any amendments to Valencia Lane by Thursday, March 28, 1991, for executive action on Monday and Tuesday, April 1 and 2, 1991.

HEARING ON HOUSE BILL 942

Presentation and Opening Statement by Sponsor:

Representative Gary Beck, District 48, said the bill was drafted for use by the military, but can also be of value to low income people. He explained that such a form would have been useful during the period of Operation Desert Shield/Storm when people were being called to serve.

Representative Beck explained that this was taken from the Uniform Statutory Power of Attorney (1988), and creates a short-form power of attorney, as specified in Section 1 of the bill. He said the short form was adopted from Minnesota law, and was successfully used by the Minnesota National Guard during Operation Desert Shield (Exhibits #1 and #2).

Representative Beck further explained that the bill requires review of the form. He read a letter from Captain William F. Bollinger, Judge Advocate General Officer, Camp Ripley, Minnesota, who said this is a quick and efficient way to have a power of attorney at no cost to the state. Representative Beck commented that anyone can print this form.

Proponents' Testimony:

Brigadier General Charles R. Adams, 163rd Armored Brigade of Montana, advised the Committee that he was inundated with requests from soldiers for legal assistance during Operation Desert Storm/Shield. He said that although Montana was not activated, the Middle East War stimulated people to get their legal affairs in order, but there were problems with response time. General Adams said this form allows for more timely assistance, and doesn't cost people money.

Opponents' Testimony:

There were no opponents of HB 942.

Questions From Committee Members:

Chairman Pinsoneault asked if this form is to be used only in the event of mobilization, and if it would be limited to use by military personnel. General Adams replied the form can be used any time, and is not limited to military personnel.

Chairman Pinsoneault commented that soldiers should initial alongside each check they make to validate it. General Adams said JAG officers would explain use of the form to soldiers, and that it is standard procedure to initial where marks are made on forms.

Chairman Pinsoneault asked if there were any objection to altering the form to accommodate initials. General Adams replied he had no objection, as long as the remainder of the form is not altered.

Senator Towe asked why the current power of attorney is not adequate. General Adams replied that the current form takes too long to complete, and doesn't allow people to be selective.

Senator Towe asked if current statute is not broad enough to cover the proposed form. General Adams replied that the proposed short-form would speed-up the process.

Senator Towe asked if this form isn't legal under present law. General Adams replied he is a tactician, and not a lawyer.

Senator Towe asked if this bill were suggesting that a standard power of attorney would not do, as it does not survive death. Representative Beck replied he was not up on the legalities

of this issue. He introduced Captain C.J. Lassila, attorney, Army Reserve National Guard, who is also employed by the State Auditor.

Senator Towe asked if HB 942 is intended to expand a normal power of attorney. Captain Lassila replied it is not.

Senator Towe asked if this form isn't already legal. Captain Lassila replied it is being put into statutory form to allow readiness, i.e., already accepted under state law for use by military and the general populace.

Senator Mazurek asked how the process of mobilization is viewed, and who is going to explain the breadth of authority in a power of attorney to these people. Captain Lassila replied this would be done via centralized briefings, and that there are several JAG officers available to provide assistance. She said the proposed short-form power of attorney is more specific.

Senator Mazurek commented that the form doesn't provide the ability to limit power of attorney to specific areas. He asked if the Department of Military Affairs would object to limiting use of the form to military personnel in the event of mobilization. Captain Lassila replied that would meet the Department's goal. She said they frequently find that people don't want to use a general power of attorney.

Chairman Pinsoneault asked if use of the short-form power of attorney could be limited only to active-duty personnel. Captain Lassila replied that goes outside the scope of reservists, and that there is an on-going need for this document.

Chairman Pinsoneault asked if it could be limited to reservists. Captain Lassila replied the form would still have a significant amount of usefulness.

Closing by Sponsor:

Representative Beck commented that reservists must have their legal affairs in order, and said the State form is quite broad. He told the Committee he believes the short-form is simple and easy to understand, and that initialing marks is a good ida. Representative Beck stated the bill will be a great asset to the legal preparedness of the Montana National Guard and Reserves, and thanked the Committee for the hearing.

HEARING ON HOUSE BILL 501

Presentation and Opening Statement by Sponsor:

Representative Ted Schye, District 18, said SB 327, sponsored by Senator Nobel, also deals with shoplifting, and is now in a Conference Committee. He explained that most of what is in SB 327 is addressed in HB 501.

ROLL CALL

SENATE JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 27 Mar 89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

DATE 3/27/91

COMMITTEE ON SENATE JUDICIARY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
GARY S. MARBUT	MT SHOOTING SPORTS ASSN & MT FISH & GAME ASSN	HB417		✓
Greg Wickes	Self / Big Sky Practical Shooting club	HB417		✓
Richard Parks	Self	HB 417	✓	
John Connor	Atty GEN's Office. MT County Attys Assn	HB 417	✓	
Randy Skorheim	self	HB887	✓	
Clyde Bayley	Mt Rifle & Pistol Assoc	HB417	✓	
Jim Flynn	MDTL	HB887		✓
Jacqueline N Terrell	Am. Ins. Assoc.	HB 887		✓
Randy J. Cox	MDTL	HB 887		✓
John Alke	Mont. Defense Trial	HB 887		✓
	Lawyers	[illegible]	✓	
David Russell	MT. Human Rights Network	HB417	✓	
Scott Crichton	ACLU	HB417	✓	
A. VI. Elwell	WCSM	HB417	✓	
CJ Lassila	MT Arms Guild	940		
Charles R. Brooks	MT Retired Officers Assoc	HB501	✓	
Tom Harrison	Mt. Sheriffs + Peace Officers	H 417	✓	
Tom Kimberlee	Fraternal Order Police	HB 887		✓
Nina Sands	MT Women's Lobby	HB417	✓	

(Please leave prepared statement with Secretary)

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

Senator Svrcek made a substitute motion that HB 414 BE TABLED. The motion carried with all members voting aye except Senator Doherty who voted no.

EXECUTIVE ACTION ON HOUSE BILL 942

Motion:

Discussion:

Amendments, Discussion, and Votes:

Valencia Lane reported that amendments were prepared for Senator Towe by David Niss in his capacity as JAG Officer and with permission, since Mr. Niss is also employed by the Legislative Council (Exhibits #4 and #5).

Senator Towe made a motion to approve the amendments in Exhibit #5 (hb094202.avl). The motion carried unanimously.

Senator Towe explained the amendments in Exhibit #4 (hb094201.avl), and said current statutes are good, but JAG Officers suggest that if the short-form power of attorney is in statute there is no question of acceptance. He said the advantage is that items A-O can be checked on the form. Senator Towe told the Committee he had no strong feelings personally on this issue.

Senator Towe said Sections 2-16 describe what each item means, and commented that he is a little ambivalent on this, as he believes it will "junk up" the Code.

Senator Harp asked if there has been misuse of power of attorney in Montana. Senator Towe replied that David Niss reported there is a need for manpower for military personnel when forces are mobilized on short notice.

Senator Halligan stated that lay people like to try to do this on their own.

Senator Mazurek said he was concerned about elderly people being duped by the forms. Senator Towe replied that a general power of attorney is even more broad.

Chairman Pinsoneault suggested limiting the form to the military.

Senator Mazurek commented that California now has a statutory will.

Senator Grosfield commented that the checklist on page 3 should provide for initials by the checkmarks made.

Recommendation and Vote:

Senator Halligan made a motion that HB 942 BE CONCURRED IN AS AMENDED. The motion carried with all members voting aye except Senators Grosfield, Harp, and Pinsoneault who voted no. Senator Halligan was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 747

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Towe explained his amendments (Exhibit #6), and said he does not believe this should be mandated a second time when it is already being done.

Senator Towe made a motion to approve his amendments. The motion carried unanimously.

Senator Mazurek asked what the rationale was for putting other alternatives in the bill, and said it is not appropriate. Chairman Pinsoneault replied that this is addressed in HB 272.

Recommendation and Vote:

Senator Towe made a motion that HB 747 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 847

Motion:

Discussion:

ROLL CALL

SENATE JUDICIARY COMMITTEE

52nd LEGISLATIVE SESSION -- 1991 Date April 19

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

April 1, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 942 (third reading copy -- blue), respectfully report that House Bill No. 942 be amended and as so amended be concurred in:

1. Page 1, line 12.
Following: "form"
Insert: ", or a form substantially similar to the following form,"

2. Page 5, line 2.
Following: "]"
Insert: ","

3. Page 5, line 4.
Strike: "exactly"
Insert: "on a form substantially similar to the form provided in subsection (1)"

Signed: _____
Richard Pinsoneault, Chairman

4-1-91
Amd. Coord.

4-1 2:00
Sec. of Senate

Exh 4
4-1-91
HB942

Amendments to House Bill No. 942
Third Reading Copy

Requested by Sen. Towe
For the Committee on Judiciary

Prepared by ~~Valencia Lane~~ DAVID NISS
March 28, 1991

1. Page 1, line 15.
Strike: "through 16"
Insert: "and 2"

2. Page 1, line 17.
Strike: "THEY ARE DEFINED IN [SECTIONS 2 THROUGH 16]."

3. Page 2, lines 14 and 15.
Strike: "as each of them is defined in [sections 2 through 16]"

4. Page 5, line 2.
Strike: "through 16"
Insert: "and 2"
Following: "]"
Insert: ","

5. Page 5, line 8.
Strike: "[sections 2 through 16]"
Insert: "the form provided in subsection (1)"

6. Page 5, line 11 through page 49, line 20.
Following: line 10
Strike: sections 2 through 15 in their entirety
Renumber: subsequent sections

Ex #3
4-1-91
HB 942

Amendments to House Bill No. 942
Third Reading Copy

Requested by Sen Towe
For the Committee on Judiciary

Prepared by ~~Valencia Lane~~ DAVID NISS
March 28, 1991

1. Page 1, line 12.
Following: "form"
Insert: ", or a form substantially similar to the following form,"

2. Page 5, line 2.
Following: "]"
Insert: ","

3. Page 5, line 4.
Strike: "exactly"
Insert: "on a form substantially similar to the form provided in subsection (1)"